Got Juice?

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Eight western governors – half of whom are Republicans – recently called on the federal government to temporarily cap the region's wholesale electricity prices. Two of the most conservative Republicans in Congress recently sponsored a bill urging the same. Yet President George W. Bush refuses to impose temporary price caps — based on cost-of-generating power with a reasonable profit — while the world's sixth largest economy staggers from soaring prices and supply shortages.

There is a plausible explanation for Bush's hands-off policy – it enriches 10 power suppliers that contributed $4.1 million to Republican candidates and committees in the 2000 election.

Three of the companies making extraordinary profits in California are based in Texas and gave $1.5 million to the Bush-Cheney campaign and inauguration and the Republican National Committee, which served, in effect, as an arm of the Bush presidential campaign in the 1999-2000 election cycle.

Moreover, two of the companies have strong personal ties to Bush. Enron is headed by Kenneth Lay, a close advisor to Bush on energy policy, a long-time Bush family friend, and an architect of Bush's policies as governor of Texas on taxes, electricity deregulation and tort "reform." Reliant Energy has on its board of directors James A. Baker III, the Bush family *consigliere* who oversaw Bush's legal efforts in the Florida recount controversy. Baker Botts L.L.P., the Houston law firm in which Baker is a partner, and its employees were one of the largest contributors to the Bush presidential campaign, giving $113,621 in 1999-2000.[1]

Both Lay and Baker have enormous personal financial stakes in Enron and Reliant and the profits they're reaping in California. Lay, for instance, received a $3.9 million cash performance bonus in 1999 from Enron and last year sold $25 million of Enron shares he had received as part of his executive compensation package.[2] Baker's law firm was paid $14.5 million for providing services to Reliant and its subsidiaries in 1999.[3]

There is clear authority for Bush and the federal government to intervene in California. The Federal Energy Regulatory Commission (FERC) is able to impose "just and reasonable" prices in California and other states.[4] While FERC is, in theory, an agency independent of the White House, Bush has influence over Curt Hebert, who he appointed as chairman of FERC just weeks ago. More important, two of FERC's five seats are currently vacant. Bush could appoint two members supportive of price caps, who could then join with Commissioner William Massey, who openly backs price caps, and Commissioner Linda Breathitt, who is open to the idea, to create a pro-cap majority in FERC.[5]

In addition, Bush's Secretary of Energy Spencer Abraham, through the Department of Energy Authorization Act, can impose price caps at his discretion.

Under the Clinton administration, FERC did not act to cap wholesale prices in the western region either. And Democrats received $1.8 million in contributions from big California power suppliers in the last election. But Bush faces a different challenge than Clinton. There's no question the crisis has deepened since Bush assumed office, and Clinton never faced pleas to intervene such as those Bush has received from governors and members of Congress.

Instead, Bush and FERC chairman Curt Hebert have advocated solutions such as expanding oil and gas drilling on federal land, loosening environmental restrictions on pipelines, refineries and power plants and increasing reliance on coal-fired plants.

Meanwhile, the value of all electricity sold in California was 276 percent higher in 2000 than in 1999[6] and the ten top sellers and marketers posted profits 54 percent higher last year than in 1999.[7]

What Western Governors Want and Why:

When California decided to deregulate its electric utilities in 1996, proponents promised that market competition would cause consumer's electric bills to drop by at least 20 percent. But because just a small number of corporations now own and control the power plants that the California utilities sold as part of the deregulation deal – and it's proven prohibitively expensive for entrepreneurs to jump in and build new plants – there is no true competition on the wholesale market.

As a result, these power producing corporations can charge whatever price they want for the electricity they produce. The prices they charged last year – when San Diego residents were the first to experience full deregulation – were nearly three times higher than in 1999. California's Independent System Operator (CAISO), a non-governmental entity that acts as a "traffic cop" and moves electricity to where it needs to go, concluded in a September 2000 report that there was no cost-based justification — such as rising natural gas prices — for the state's high electricity prices.[8]

Deregulation advocates, such as President Bush, argue that prices must climb in order to entice more competitors into the market. But residents of San Diego already tried this experiment, which buckled when no new competitors entered the market – even after consumers' electric bills tripled in less than two months.[9]

The handful of power producers appear to be manipulating supply as well to jack up prices. "Undisclosed" power-plant outages have skyrocketed under deregulation. Last August, for example, 461 percent more capacity was off-line than a year earlier.[10] Since the state no longer regulates power production, the owners have the incentive to intentionally shut down their plants, therefore artificially constricting supply to drive prices up even further.

Because California is such a large state, events there ripple across the western United States. A third of California's power comes from neighboring states, all of which are experiencing fast-rising electricity rates as their power is being siphoned off to California and are facing growing consumer anger over the mess. That's why eight of 11 western state governors recently called on the federal government to impose wholesale price caps on the region's electricity market.[11]

The governors are joined by two conservative California Republican members of Congress and 18 colleagues who've seen the terrible effects of deregulation in their California districts. Rep. Duncan Hunter is the lead sponsor of House bill H.R. 238, which authorizes the Secretary of Energy to impose caps on the cost of electric energy to "protect consumers from unjust and unreasonable prices." The bill is co-sponsored by Rep. Randy "Duke" Cunningham. The duo's conservative credentials are impeccable. Hunter has a 93 percent lifetime rating from the American Conservative Union, Cunningham a 95 percent rating.

It's clear who would benefit most from the price caps: consumers and all California taxpayers. In late January, Gov. Gray Davis signed a law that made the state the primary purchaser of power. Thus, taxpayers would save billions from capping wholesale prices. A federally mandated cap would give Californians another benefit, in the form of added bargaining leverage. State officials could more easily negotiate lower-priced contracts with wholesalers if the power suppliers felt the alternative was a federally-imposed limit on rates. But with Bush refusing to even consider such a cap, the power producers have no fear of charging California's taxpayers outrageous prices for electricity.

Precedent for Bush and FERC to Intervene

The federal government can regulate aspects of the electric utility industry through either the five-member FERC or the Department of Energy.

On Nov. 1, 2000, FERC concluded that California's wholesale prices were not "just and reasonable." Although FERC acknowledged that it could recommend options such as a "return to traditional cost-of-service regulation for generators in California," "adopt[ing] limited term price caps for spot market sales," or "adopt[ing] a limited-term price cap to apply to longer-term sales," the commission declined to implement a region-wide price cap, which would spare California continued price shocks and prevent the same thing from happening in neighboring states.[12]

It's not as if FERC has never imposed regional price caps. In fact, FERC recently mandated region-wide price caps in the northeast United States. At about the same time FERC issued its November report on California's high prices, the commission imposed temporary caps of $1,000 per megawatt-hour on bids by power suppliers in New York and New England.[13] The successful petitioners called for the price caps to remain until the wholesale market showed evidence of competition. The only dissenting FERC member was Bush's new chairman, Curt Hebert.

Rather than imposing a region-wide price cap as they did in the northeast, FERC made matters even worse when it issued (effective Jan. 1, 2001) a so-called "soft" price cap on electricity sold only in California by California companies.[14] This cap – which was criticized by state officials – allowed out-of-state power marketers, such as Enron and Reliant, and power plant owners to charge much higher prices in California than in-state producers. The soft price cap also had the effect of encouraging the state's power producers to sell their electricity outside California for higher prices, contributing to an energy shortage in California. Without region-wide caps, the California-only restrictions continue to fail. That's why the eight governors and 20 members of California's congressional delegation are urging the federal government to intervene.

Big Contributors, "Pioneers" and Advisors All Oppose Price Caps

Bush's inaction could be explained by a free market ideology, which conveniently supports his call for more drilling and mining and relaxed pollution standards. But his hands-off position also happens to be just what big California power suppliers, such as Enron, want – and those companies contributed heavily to Bush and Republican party committees in the 2000 election. They also dramatically increased their contributions in the 2000 election to push their agenda for deregulation in California and across the nation.

Ten major power plant owners and marketers that service California (including one trade association, the Edison Electric Institute, which represents investor-owned utilities) made significant contributions to federal candidates and national party committees in the 1999-2000 election. Their contributions (through Nov. 27, 2000) to federal candidates and political parties reveal the following:

- These companies are big players. The 10 major power suppliers and their executives contributed $5.9 million to Republican and Democratic candidates and parties in 1999-2000 – not counting Bush-Cheney Inaugural Committee donations. (see Table 1)

- They more than doubled their contributions in 1999-2000 as compared to the last presidential cycle, as they pushed for deregulation in Congress and across the country. For instance, total contributions increased 124 percent and soft money contributions — unlimited contributions from corporations, unions and wealthy individuals — increased 155 percent. (see Table 2)

- Enron, the company with one of the largest shares of the California power market, was the single biggest contributor. It gave 138 percent more money in the 2000 election than in 1996 and 178 percent more soft money.

- These 10 companies strongly favor Republicans. Overall, 70 percent of their contributions – or $4.1 million – went to Republicans in 1999-2000.

- These companies increasingly prefer to make unlimited soft money contributions, which carry increased influence, because they go directly to party committees controlled by congressional leaders and the president. These 10 power brokers contributed $3 million – or 51 percent of all their contributions – in unlimited soft money to party committees.

- These companies greatly favored Bush over Gore. They gave 13 times as much to Bush as they gave to Vice-President Gore. Overall, they contributed $1.6 million to Bush and the Republican National Committee (RNC) and gave $640,000 to Al Gore and the Democratic National Committee (DNC). (see Table 3)

- Texas-based corporations dominate the contributions from 10 major California power producers and sellers. Enron ($2.3 million) and Reliant ($825,000) account for 54 percent of the total contributed by the 10 major companies.

- The three Texas companies — Enron, Reliant, and Dynegy — contributed more than $1.5 million to Bush's campaign, inauguration committee and RNC.

- Those companies also contributed significantly to congressional party committees and members of Congress who could intervene to impose federal price caps in California – or stay out as the companies prefer. The companies contributed $1.1 million to the GOP House and Senate committees and more than $566,000 to the Democratic House and Senate committees. (see Table 4)

The Pioneers

Some of the California power suppliers are more plugged in than the average GOP contributor. Several are members of the Bush "Pioneers," the elite group of Bush friends who pledged to raise at least $100,000 each to help launch George W. Bush's presidential campaign and help make him a frontrunner for the GOP nomination. Pioneers include:

- Don D. Jordan, chairman of Houston-based Reliant Energy (formerly known as Houston Industries) until he retired at the end of 1999. When Texas deregulated its electric markets in 1999, Reliant achieved its goal of making ratepayers bail it out for the cost of its nuclear plant, which could not compete in an open market. Exploiting a "grandfather" loophole, Reliant also never installed modern pollution controls on old power plants that have annual air-pollution emissions equivalent to that of 670,482 cars.[15]

- Steve Letbetter, the new CEO of Reliant. The company and its employees gave $47,000 to Bush's gubernatorial campaigns in 1994 and 1998. They gave Bush and the RNC $289,000 in last year's election.

- Thomas Kuhn, president of Edison Electric Institute, a trade group of investor-owned utilities. Kuhn revealed in a 1999 fundraising letter that Bush was putting a competitive squeeze on business supporters by carefully tracking how much his campaign received from different industries. Bush campaign fundraisers "have stressed the importance of having our industry incorporate the #1178 tracking number in your fundraising efforts," Kuhn wrote to his utility-owning colleagues. "It does ensure that our industry is credited, and that your progress is listed among the other business/industry sectors."[16]

- Kenneth Lay, chairman of Enron. Lay was a key fundraiser for Bush's father's presidential campaigns. He also hired former President Bush's cabinet members James Baker and Robert Mosbacher when they left office in 1993. After President Bush's 1993 Gulf War "victory tour" of Kuwait, Baker and other members of his entourage stayed on to hustle Enron contracts.[17] Topping Enron's political wish list in Texas was deregulation of the state's electrical markets, which Gov. George W. Bush signed into law in 1999 (Enron and its employees contributed $312,000 to Bush's campaigns for governor.). Bush and Lay have been seen sitting side-by-side at baseball games at Enron Field in Houston. Lay was also one of 36 key business leaders that Bush recently invited to an economics meeting in Austin on January 2, 2001.[18]

Presidential Transition Energy Advisors

As President-elect, Bush created a panel of 48 experts to advise him on energy policy. The panel did not count any consumer advocates or academics among its members. But it did include three figures who are connected to California power producers and marketers: Ken Lay of Enron, Thomas Kuhn of the Edison Electric Institute and Steve Wakefield, chief attorney for the Southern Company.[19]

Inaugural Donors

Electric utilities donated $825,000 to the Bush-Cheney Inaugural Committee (which had disclosed $28.8 million in contributions through Jan. 25, 2001.) Leading the way were Enron ($300,000), Reliant ($100,000) and the Southern Company ($100,000). This half-million in contributions from companies with a stake in California's electricity market were made between Dec. 26, 2000 and Jan. 10, 2001, which, coincidentally was when the California electricity problems started to reach crisis status. (see Table 5)

Party Convention Contributions

In addition to all the contributions mentioned above, Enron gave $250,000 to the Republican Party on March 1, 2000 for its national convention in Philadelphia and $100,000 to the Democratic Party on July 14, 2000 for its convention in Los Angeles.[20]

Counting Their Money While California Goes Dark

No wonder the top contributors were able to give so many millions to political parties: these major power producers and marketers operating in California earned more than $7.7 billion in after tax profits in 2000, a 54 percent jump over 1999. (see Table 6) These companies stand to earn even more if Bush fails to cap wholesale prices.

The three Texas-based companies (Enron, Reliant and Dynegy) were among those who profited most from California's deregulation. According to company financial reports filed with the Securities and Exchange Commission, Enron posted a 42 percent increase in profits last year; Reliant saw profits rise 55 percent and Dynegy realized a whopping

210 percent profit. The profits of the other 9 major companies ranged from 3 percent for Southern Company to 276 percent for Williams Co. (see Table 6).

Finally, it should be noted that the views on how to solve the California energy “crisis” expressed by Bush, his hand-picked FERC chairman Hebert and his Secretary of Energy Spencer Abraham may provide a blueprint of the Bush II administration’s energy policy. The emphasis of that policy is more drilling for oil and gas, more coal-mining and relaxed rules on pollution. Not surprisingly this strategy benefits the electric utilities, oil and gas producers and coal mining conglomerates who contributed much more to Bush ($2.3 million) than any other candidate in the 2000 election. (see Table 7).

Energy secretary Abraham received $348,000 from special interests for his failed re-election bid, making him one of their top recipients.

Overall, these three industry sectors contributed $50.9 million in the 2000 election — a huge sum that virtually guarantees our energy policy will be driven by corporate profits rather than consumer or environmental considerations.

Table 1: Contributions from Major California Power Producers and Marketers to Federal Candidates and Political Parties, 1999 – 2000

	Republicans				Democrats				Total
Company	**Hard**	**Soft**	**Total**	**Party Share of Total**	**Hard**	**Soft**	**Total**	**Party Share of Total**	
Enron Corporation	$630,179	$979,850	$1,610,029	69%	$208,204	$520,065	$728,269	31%	$2,338,298
Southern Company	$542,700	$313,800	$856,500	76%	$212,250	$62,750	$275,000	24%	$1,131,500
Reliant Corporation	$230,906	$403,700	$634,606	77%	$117,767	$72,538	$190,305	23%	$824,911
Edison Electric Institute	$152,539	$194,525	$347,064	54%	$92,661	$200,900	$293,561	46%	$640,625
Williams Companies	$139,678	$104,275	$243,953	89%	$30,850	$0	$30,850	11%	$274,803
Duke Energy	$175,781	$35,000	$210,781	76%	$66,250	$0	$66,250	24%	$277,031
Arizona Public Service	$92,450	$0	$92,450	86%	$14,750	$0	$14,750	14%	$107,200
Dynegy	$60,150	$0	$60,150	50%	$28,900	$31,000	$59,900	50%	$120,050
AES Corporation	$4,350	$300	$4,650	6%	$71,200	$5,000	$76,200	94%	$80,850
Calpine Corporation	$4,150	$30,500	$34,650	47%	$16,950	$22,500	$39,450	53%	$74,100
Totals	$2,032,883	$2,061,950	$4,094,833	70%	$859,782	$914,753	$1,774,535	30%	$5,869,368

Source: Public Disclosure Inc. (www.tray.com) data analyzed by Public Citizen.

Table 2: Contributions from Major California Power Producers and Marketers to Federal Candidates and Political Parties, 1995 - 1996

	Republicans				Democrats				Total
Company	Hard	Soft	Total	Party Share of Total	Hard	Soft	Total	Party Share of Total	
Enron Corporation	$344,068	$398,100	$742,168	76%	$96,650	$142,400	$239,050	24%	$981,218
Southern Company	$115,300	$235,000	$350,300	83%	$12,750	$60,000	$72,750	17%	$423,050
Edison Electric Institute	$68,750	$162,500	$231,250	78%	$15,750	$50,000	$65,750	22%	$297,000
Williams Companies	$110,750	$59,900	$170,650	86%	$21,690	$6,500	$28,190	14%	$198,840
Duke Energy	$60,025	$35,000	$95,025	78%	$11,750	$15,000	$26,750	22%	$121,775
Arizona Public Service	$71,527	$0	$71,527	85%	$13,000	$0	$13,000	15%	$84,527
Reliant Corporation	$53,700	$5,000	$58,700	71%	$23,539	$0	$23,539	29%	$82,239
AES Corporation	$5,400	$0	$5,400	43%	$7,225	$0	$7,225	57%	$12,625
Dynegy	$0	$0	$0		$0	$0	$0		$0
Calpine Corporation	$0	$0	$0		$0	$0	$0		$0
Totals	**$829,520**	**$895,500**	**$1,725,020**	**78%**	**$202,354**	**$273,900**	**$476,254**	**22%**	**$2,201,274**

Source: Public Disclosure Inc. (www.tray.com) data analyzed by Public Citizen.

Table 3: Contributions from Major California Power Producers and Marketers to Presidential Candidates and National Party Committees, 1999 – 2000

Company	Bush	Republican National Committee	Gore	Democratic National Committee	Total
Enron Corporation	$127,525	$713,200	$11,250	$341,350	$1,193,325
Reliant Corporation	$35,070	$253,950	$1,500	$10,500	$301,020
Southern Company	$13,000	$217,200	$0	$65,000	$295,200
Edison Electric Institute	$5,500	$98,140	$2,250	$137,750	$243,640
Calpine Corporation	$0	$30,500	$1,000	$20,000	$51,500
AES Corporation	$0	$0	$0	$50,000	$50,000
Duke Energy	$3,750	$35,250	$0	$0	$39,000
Williams Companies	$1,300	$16,800	$0	$0	$18,100
Dynegy	$10,250	$1,050	$0	$0	$11,300
Arizona Public Service	$0	$0	$0	$0	$0
Totals	**$196,395**	**$1,366,090**	**$16,000**	**$624,600**	**$2,203,085**

Source: Public Disclosure Inc. (www.tray.com) data analyzed by Public Citizen.

Table 4: Contributions from Major California Power Producers and Marketers to Congressional Party Committees, 1999 - 2000

Company	National Republican Congressional Committee	National Republican Senatorial Committee	Democratic Congressional Campaign Committee	Democratic Senatorial Campaign Committee	Total
Enron Corporation	$245,400	$162,500	$141,630	$104,300	$653,830
Southern Company	$126,350	$180,500	$51,500	$62,750	$421,100
Reliant Corporation	$120,000	$35,000	$67,538	$5,000	$227,538
Edison Electric Institute	$67,500	$36,750	$77,900	$15,250	$197,400
Williams Companies	$42,700	$48,275	$0	$2,000	$92,975
Dynegy	$10,000	$0	$30,000	$1,000	$41,000
Duke Energy	$0	$26,500	$0	$0	$26,500
AES Corporation	$300	$0	$5,000	$0	$5,300
Calpine Corporation	$0	$0	$2,500	$0	$2,500
Arizona Public Service	$0	$0	$0	$0	$0
Totals	**$612,250**	**$489,525**	**$376,068**	**$190,300**	**$1,668,143**

Source: Public Disclosure Inc. (www.tray.com) data analyzed by Public Citizen.

Table 5: Contributions from Major California Power Producers and Marketers to the Bush-Cheney 2001 Presidential Inaugural Committee

Donor	Company	Date	Amount
Enron Corporation	Enron Corp	1/5/01	$100,000
Jeffrey Skilling	Enron Corp	12/29/00	$100,000
Kenneth & Linda Lay	Enron Corp	12/26/00	$100,000
Southern Company	Southern Co	1/10/01	$100,000
Steve Letbetter	Reliant Energy	1/2/01	$100,000
Total			**$500,000**

Source: Public Disclosure Inc. (www.tray.com) data analyzed by Public Citizen.

Table 6: Increased Profits for Major California Power Suppliers (in millions)

Company	1999	2000	% Change
Williams Companies	$221	$832	276%
Calpine Corporation	$95	$323	240%
Dynegy	$146	$452	210%
AES Corporation	$228	$657	188%
Arizona Public Service	$127	$307	141%
Reliant Energy	$528	$819	55%
Enron Corporation	$893	$1,266	42%
Duke Energy	$1,507	$1,776	18%
Southern Company	$1,276	$1,313	3%
Total	**$5,022**	**$7,745**	**54%**

Source: Published company financial disclosure forms analyzed by Public Citizen.

Table 7: Bush and Abraham Contributions from Energy Industries, 1999 – 2000

	Electric Utilities	Oil & Gas	Coal Mining	Total
Total Amount (millions)	$17.7	$29.7	$3.5	$50.9
Total Soft Money (millions)	$8.1	$13.5	$1.7	$23.3
Percentage of Total to GOP	68%	80%	88%	(Aver.) 79%
Top Recipient (of all candidates '99-'00)	Bush ($433,589)	Bush ($1,800,000)	Bush ($101,521)	Bush ($2,335,110)
Energy Secretary Receipts (Spencer Abraham)	$94,478 (rank: 7th)	$227,771 (rank: 3rd)	$25,750 (rank:12th)	$347,999

Source: Center for Responsive Politics (www.opensecrets.org)

1. Center for Responsive Politics (www.opensecrets.org).
2. Enron's March 21, 2000 DEF 14a filing with the Securities and Exchange Commission.
3. Reliant's April 3, 2000 DEF 14a filing with the Securities and Exchange Commission, pg. 7.
4. Section 205 of the 1935 Federal Power Act.
5. Rebecca Smith, "Governors Seek Caps on Prices for Electricity," *The Wall Street Journal*, Feb. 5, 2001.
6. Chip Commins and Rebecca Smith, "For Power Suppliers, The California Market Loses Its Golden Glow," *The Wall Street Journal*, Jan. 25, 2001.
7. Published company financial disclosure forms analyzed by Public Citizen.
8. CAISO Market Surveillance Committee report, "An Analysis of the June 2000 Price Spikes in the California ISO's Energy and Ancillary Service markets," Sept. 6, 2000.
9. John Howard, "Lawmakers wrap up San Diego utility plan," Associated Press, Sept. 1, 2000.
10. Chip Commins and Rebecca Smith, "For Power Suppliers, The California Market Loses Its Golden Glow," *The Wall Street Journal*, Jan. 25, 2001.
11. William Booth, "Governors Spurned on Power Price Caps", *The Washington Post*, Feb. 3, 2001, pg. A3. The eight pro-cap governors are: Gray Davis (D-Calif.); Jim Geringer, (R-Wyo.); Kenny Guinn, (R-Nev.); John Kitzhaber (D-Ore); Tony Knowles (D-Alaska); Mike Leavitt (R-Utah), Gary Locke (D- Wash.); and Judy Martz (R-Mont.).
12. Federal Energy Regulatory Commission, "Staff Report to the Federal Energy Regulatory Commission on Western Markets and the Causes of the Summer 2000 Price Abnormalities", Nov. 1, 2000.
13. Public Utilities Fortnightly, "Price Cap Backlash," Sept. 1, 2000, pg. 10.
14. Federal Energy Regulatory Commission, "Staff Report to the Federal Energy Regulatory Commission on Western Markets and the Causes of the Summer 2000 Price Abnormalities," Nov. 1, 2000.
15. Texans for Public Justice, "The Pioneers: George W. Bush's $100,000 Club," July 28, 2000. Available at www.tpj.org/pioneers
16. See n. 15
17. see n. 15
18. Seymour Hersh, "The Spoils of the Gulf War," *The New Yorker*, Sept. 6, 1993.
19. see n. 15
20. Center for Responsive Politics, "Returning the Favor II," Jan. 3, 2001. Available at www.opensecrets.org, link to "Bush Economics Meeting Includes Large Contributors."
21. Center for Responsive Politics, "Returning The Favor," Jan. 2, 2001. Available at www.opensecrets.org, link to "Bush's Advisory Teams Include Big Company Donors."